

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SPECIAL INVESTIGATION REPORT
OF

CLERK-TREASURER
CITY OF LAWRENCBURG
DEARBORN COUNTY, INDIANA

January 1, 2012 to April 12, 2013



FILED
12/29/2016

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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Jacqueline A. Stutz	01-01-12 to 12-31-15
Mayor	Dennis Carr	01-01-12 to 12-31-15
President of the Board of Public Works	Dennis Carr	01-01-12 to 12-31-15
President of the City Council	Doug Taylor Michael Lawrence Aaron Cook Jane Pope	01-01-12 to 12-31-12 01-01-13 to 12-31-13 01-01-14 to 12-31-14 01-01-15 to 12-31-15



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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TO: THE OFFICIALS OF THE CITY OF LAWRENCEBURG, DEARBORN COUNTY

We have conducted a special investigation of the records of the Clerk-Treasurer for the period from January 1, 2012 to April 12, 2013. Our investigation was limited to examining payroll records. The purpose of our investigation was to determine if the accountability for cash and other assets are satisfactory and that the transactions related thereto are in compliance with the laws and regulations of the State of Indiana. The results of our investigation are described in the Special Investigation Results and Comments and Summary of Charges as listed in the Table of Contents.

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

Any Official Response to the Special Investigation Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

April 16, 2015

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS

UNAUTHORIZED PAYROLL CHECKS

Thirty-five unauthorized payroll checks totaling \$32,745.07 were paid to Theresa Bruening, former Deputy Clerk-Treasurer, in addition to Theresa Bruening, former Deputy Clerk-Treasurer's regularly scheduled payroll checks. These unauthorized checks, dated from March 20, 2012 to March 6, 2013, were processed through the City's depository account, but were not recorded on the financial ledger maintained by the Clerk-Treasurer's Office. There were no payroll withholdings or employer payroll contributions paid on these unauthorized checks.

The computerized payroll records showed the unauthorized checks were made payable to other City employees. The unauthorized checks were subsequently voided, leaving an appearance that no check was written. Depository records showed that each unauthorized check processed through the depository account had the same check number as the voided check. Each unauthorized check was made payable to Theresa Bruening, former Deputy Clerk-Treasurer.

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

The above information was provided to the Indiana State Police.

Theresa Bruening, former Deputy Clerk-Treasurer, entered a plea of guilty of fraud by wire in United States District Court Southern District of Indiana New Albany Division (Cause Number: 4:14-cr-00017-TWP-MGN) related to the unauthorized payroll checks. As part of the guilty plea, the Court ordered Theresa Bruening, former Deputy Clerk-Treasurer, on October 24, 2014, to pay restitution that included the \$32,745.07.

Theresa Bruening, former Deputy Clerk-Treasurer, was requested to reimburse the City \$32,745.07 for unauthorized payroll checks. (See Summary of Charges, page 13)

DUPLICATE PAYROLL PAYMENTS

Theresa Bruening, former Deputy Clerk-Treasurer, paid herself duplicate payroll payments totaling \$6,308.92 as shown in the following schedule:

Date	Check/ Direct Deposit Number	Payroll Period	Gross Pay	Duplicate Payment
02-07-12	58689	01-28-12 to 02-03-12	\$1,126.49	
02-07-12	58690	01-28-12 to 02-03-12	1,014.80	\$ 1,014.80
07-31-12	61397	07-21-12 to 07-27-12	1,215.36	
07-31-12	61398	07-21-12 to 07-27-12	1,184.34	1,184.34
03-04-13	64452	02-23-13 to 03-01-13	1,250.60	
03-06-13	64465	02-23-13 to 03-01-13	1,250.60	1,250.60
03-11-13	64531	03-02-13 to 03-08-13	1,288.96	
03-13-13	9581	03-02-13 to 03-08-13	1,288.96	1,288.96
04-01-13	64873	03-23-13 to 03-29-13	1,595.79	
04-02-13	64874	03-23-13 to 03-29-13	1,570.22	<u>1,570.22</u>
Total				<u><u>\$6,308.92</u></u>

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

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Theresa Bruening, former Deputy Clerk-Treasurer, was requested to reimburse the City \$6,308.92 for duplicate payroll payments. (See Summary of Charges, page 13)

EXCESS EMPLOYER PAYROLL CONTRIBUTIONS

Theresa Bruening, former Deputy Clerk-Treasurer, received duplicate payroll payments as discussed in Special Investigation Result and Comment titled "Duplicate Payroll Payments." The duplicate payments also resulted in the City paying out excess employer payroll contributions totaling \$1,497.29 on behalf of Theresa Bruening, former Deputy Clerk-Treasurer, as shown in the following schedule:

	<u>Amount</u>
Social Security Taxes	\$ 391.15
Medicare Taxes	91.48
IAM Retirement	200.00
Public Employees' Retirement	<u>814.66</u>
Total	<u>\$ 1,497.29</u>

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Theresa Bruening, former Deputy Clerk-Treasurer, was requested to reimburse the City \$1,497.29 for excess employer contributions. (See Summary of Charges, page 13)

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

LIQUIDATED DAMAGES - UNION PENSION FUND

The City was required by a collective bargaining agreement with the International Association of Machinists and Aerospace Workers Union Local 1391 (IAM) to remit employee contributions and employer contributions to the IAM National Pension Fund. Contributions were to be remitted to IAM National Pension Fund by the 20th of the following month that employee contributions were withheld. For the months of April 2012 to February 2013, the City was to remit contributions that averaged a total of \$59,874 per month (\$22,664 per month to the Police Department plan and \$37,210 per month to the City Employee plan). However, the remittances were made 21 days to 134 days after the required due date.

The IAM National Pension Fund assessed the City "Liquidated Damages" and interest totaling \$138,737.58 for the late remittance of the pension withholdings and City contributions. "Liquidated Damages" are similar to penalties. The liquidated damages and interest paid were as follows:

<u>Period Assessed</u>	<u>Notes</u>	<u>Pension Plan</u>	<u>Date</u>	<u>Check No.</u>	<u>Amount</u>
April 2012 to November 2012	(1)	Police Dept.	03-16-13	97224	\$ 42,630.13
April 2012 to November 2012	(1)	City Employee	03-16-13	97225	69,208.33
December 2012 to January 2013	(2)	Police Dept.	05-10-13	97814	9,868.08
December 2012 to January 2013	(2)	City Employee	05-10-13	97814	<u>17,031.04</u>
Total					<u>\$ 138,737.58</u>

Notes to Schedule:

- (1) Payment was processed without the support of an itemized claim showing that the payment was for liquidated damages and interest. Theresa Bruening, former Deputy Clerk-Treasurer, was responsible for processing this payment.

Check number 97224 was paid from the Riverboat Fund and posted to an expenditure account titled "Off R/W Concrete Program." Check number 97225 was paid from the Riverboat Fund and posted to two expenditure accounts with one account titled "Street Improvement" and the other account titled "Unfinished Projects."

The payment was made without an itemized claim and the posting of the expenditure was not descriptive of actual expenditure which obscured the true nature of the expenditure.

- (2) Payment was processed after City officials became aware that employee and employer contributions were not being remitted timely by Theresa Bruening, former Deputy Clerk-Treasurer. This payment was processed with the support of an itemized claim identifying the payment as being for liquidated damages and interest.

Jacqueline A. Stutz, Clerk-Treasurer, stated the following on February 20, 2014:

"Theresa Bruening, Deputy Clerk-Treasurer, was assigned the responsibility to process payroll withholdings and employer payroll contributions and the associated forms and reports for the period January 1, 2009 to April 15, 2013."

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

"Theresa Bruening, Deputy Clerk-Treasurer, had been assigned the responsibility to process payroll withholdings and employer payroll contributions and the associated forms and reports several years prior to January 1, 2009. To my knowledge, these reports were filed timely and properly and the City had not been assessed penalties, interest, or other charges for late or improper filing from July, 2000 to December 31, 2008."

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest, or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Theresa Bruening, former Deputy Clerk-Treasurer, was requested to reimburse the City \$138,737.58 for liquidated damages - union pension fund. (See Summary of Charges, page 13)

PENALTIES AND INTEREST

The City was assessed penalties and interest for failure to timely submit various payroll related reports; failure to submit accurate payroll related reports; and failure to timely remit payroll withholdings/ employer contributions. These failures resulted in the City paying the assessed penalties and interest totaling \$72,742.79 as shown in the following schedule:

Year of Non- Compliance	Assesed By and Paid To			
	Internal Revenue Service	Indiana Dept. of Revenue	Indiana Dept. of Workforce Development	Totals
2009	\$ 11,950.00	\$ -	\$ -	\$ 11,950.00
2010	24,875.34	-	-	24,875.34
2011	-	-	255.85	255.85
2012	13,967.01	9,242.86	8,352.69	31,562.56
2013	701.67	195.77	3,201.60	4,099.04
Totals	<u>\$ 51,494.02</u>	<u>\$ 9,438.63</u>	<u>\$ 11,810.14</u>	<u>\$ 72,742.79</u>

Jacqueline A. Stutz, Clerk-Treasurer, stated the following on February 20, 2014:

"Theresa Bruening, Deputy Clerk-Treasurer, was assigned the responsibility to process payroll withholdings and employer payroll contributions and the associated forms and reports for the period January 1, 2009 to April 15, 2013."

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

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Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest, or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Theresa Bruening, former Deputy-Clerk-Treasurer, was requested to reimburse the City \$72,742.79 for penalties and interest. (See Summary of Charges, page 13)

SHOE ALLOWANCE

The union contract between the City and the International Association of Machinists and Aerospace Workers states in Article XV-Safety subsection (2) states: "The City agrees to pay \$100.00 per year to full-time employees. The shoe allowance may be accumulated for two (2) years, not to exceed two hundred (\$200.00)." A review of the shoe allowances paid showed that Theresa Bruening, former Deputy Clerk-Treasurer, was paid excess shoe allowance in the amount of \$100 determined as follows:

<u>Date of Check</u>	<u>Check Number</u>	<u>Years Shoe Allowance Covers</u>	<u>Maximum Allowed</u>	<u>Check Amount</u>	<u>Excess Paid</u>
08-10-11	3781	2010 and 2011	\$ 200	\$ 200	\$ -
08-07-12	93500	2012	<u>100</u>	<u>200</u>	<u>100</u>
Totals			<u>\$ 300</u>	<u>\$ 400</u>	<u>\$ 100</u>

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Theresa Bruening, former Deputy Clerk-Treasurer, was requested to reimburse the City \$100 for excess shoe allowance. (See Summary of Charges, page 13)

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred costs totaling \$22,651.25 in the investigation of unauthorized payroll checks; duplicate payroll payments to Theresa Bruening, former Deputy Clerk-Treasurer; and the payment of liquidated damages/penalties and interest.

Audit costs incurred because of theft or shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Audit costs or other costs incurred because of poor records, nonexistent records or other inadequate bookkeeping practices may be the personal obligation of the responsible official or employee of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Theresa Bruening, former Deputy Clerk-Treasurer, was requested to reimburse the State of Indiana \$22,651.25 for additional audit costs. (See Summary of Charges, page 13)

INTERNAL CONTROL DEFICIENCIES

The following internal control deficiencies contributed to the improper payments to Theresa Bruening, former Deputy Clerk-Treasurer:

Unauthorized Payroll Checks

There was a lack of segregation of duties related to the processing of payroll checks. Theresa Bruening, former Deputy Clerk-Treasurer, was responsible for processing the supporting documentation for payroll checks/direct deposits; preparing payroll checks/direct deposits; and performing bank account reconciliations.

No monthly bank account reconciliations were performed during the time period the unauthorized checks were written. If monthly depository reconciliations had been performed by an official, employee, or agent of the City separate from the employee responsible for processing payroll, the unauthorized checks could have been identified more timely.

After Jacqueline A. Stutz, Clerk-Treasurer, became aware that monthly bank account reconciliations were not being performed, the City contracted with an accounting firm who began the process of performing the monthly bank account reconciliations. The accounting firm, while performing monthly bank account reconciliations, identified questionable checks paid to Theresa Bruening, former Deputy Clerk-Treasurer.

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Duplicate Payroll Checks

Duplicate payments occurred during the year 2012 due to a lack of segregation of duties and due to the practice of the Clerk-Treasurer's Office allowing the Deputy Clerk-Treasurer to be paid in advance. Theresa Bruening, former Deputy Clerk-Treasurer, was responsible for processing payroll checks. No information was presented for examination documenting that an official or employee, not involved in writing payroll checks, reviewed payroll payments made to Theresa Bruening, former Deputy Clerk-Treasurer.

Duplicate payments occurred during the year 2013 due to a lack of segregation of duties. No information was presented for examination documenting that an official or employee, not involved in preparation of payroll checks, reviewed payroll payments made to Theresa Bruening, former Deputy Clerk-Treasurer.

The following internal deficiency resulted in the payment of liquidated damages/penalties and interest being paid by the City:

Liquidated Damages/Penalties Interest Paid

No information was presented for examination documenting that an official or employee was assigned to verify that payroll withholdings were being remitted timely and that the proper reports were being filed timely.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets, and all forms of information processing are necessary for proper internal control.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

INSURANCE COVERAGE

The City has obtained the following bond covering deputies and employees of the Clerk-Treasurer's Office:

Surety:	Ohio Casualty Insurance Company
Bond Number:	4-051-950
Type of Coverage:	Public Employee Dishonesty Crime Policy with Faithful Performance Endorsement
Period of Coverage:	01-01-11 to 01-01-15
Obligee:	State of Indiana
Amount:	\$ 100,000
Deductible:	\$ 1,000

CLERK-TREASURER
CITY OF LAWRENCEBURG
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Surety:	Ohio Casualty Insurance Company
Bond Number:	3-892-111
Type of Coverage:	Employee Dishonesty with Faithful Performance Endorsement
Period of Coverage:	05-21-07 to 05-21-15
Obligee:	State of Indiana
Amount:	\$ 2,000,000
Deductible:	\$ 1,000

CLERK-TREASURER
CITY OF LAWRENCEBURG
EXIT CONFERENCE

The contents of this report were discussed on April 16, 2015, with Theresa Bruening, former Deputy Clerk-Treasurer.

The contents of this report were discussed on November 18, 2015, with Jacqueline A. Stutz, Clerk-Treasurer; Dennis Carr, Mayor; Jane Pope, President of the City Council; Michael Lawrence, City Council member; and Leslie Votaw, City Attorney.

CLERK-TREASURER
CITY OF LAWRENCEBURG
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Theresa Bruening, former Deputy Clerk Treasurer:			
Unauthorized Payroll Checks, page 4	\$ 32,745.07	\$ -	\$ 32,745.07
Duplicate Payroll Payments, pages 4 and 5	6,308.92	-	6,308.92
Excess Employer Payroll Contributions, page 5	1,497.29	-	1,497.29
Liquidated Damages - Union Pension Fund, pages 6 and 7	138,737.58	-	138,737.58
Penalties and Interest, pages 7 and 8	72,742.49	-	72,742.49
Shoe Allowance, page 8	100.00	-	100.00
Special Investigation Costs, page 9	<u>22,651.25</u>	<u>-</u>	<u>22,651.25</u>
Totals	<u>\$274,782.60</u>	<u>\$ -</u>	<u>\$ 274,782.60</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

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AFFIDAVIT

STATE OF INDIANA)
)
DEARBORN COUNTY)

I, Richard N. Ahlrich, Special Investigator, being duly sworn on my oath, state that the foregoing report based on the official records as described in our letter to the officials of the Clerk-Treasurer, City of Lawrenceburg, Dearborn County, Indiana, for the period from January 1, 2012 to April 12, 2013, is true and correct to the best of my knowledge and belief.

Richard N. Ahlrich
Special Investigator

Subscribed and sworn to before me this 14th day of MARCH, 2016.

[Signature]
Clerk of the Circuit Court

